

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-193432

DATE: September 16, 1985

MATTER OF: Trailer Convoy, Inc.

DIGEST: Carrier asks for reconsideration of decision, Chandler Trailer Convoy, Inc., B-193432; B-211194, January 5, 1984, which denied a claim for refund of an amount collected from the carrier by the Marine Corps for damage during transportation of a marine's used mobile home. The mere contention that many items of damage charged to the carrier were the result of normal wear and tear rather than transportation does not establish the validity of carrier's claim for refund where the unit transported was only 7 months old and there is substantial evidence of rough handling by the carrier. A lower estimate of damage prepared for the carrier's insurance company 8 months after delivery is of doubtful reliability where there is evidence that the owner had made several repairs prior to the estimate. Prior decision is affirmed.

Chandler Trailer Convoy, Inc., asks for reconsideration of our decision, B-193432; B-211194, January 5, 1984. We affirm our prior decision.

Background

The decision denied several claims filed by Chandler to recover monies set off by various Government shipping agencies under subrogation rights acquired through the payment of armed services members' claims for transportation-related damage to used mobile homes. The present request for reconsideration pertains only to the claim relating to damage sustained by a 7-month-old mobile home belonging to Staff Sergeant Richard A. Lingner, USMC, which the carrier transported, about 200 miles, from Brownwood to Whitesboro, Texas, on July 31, 1981, under Government Bill of Lading M-3643298.^{1/}

^{1/} GAO Claims Group's No. Z-2608885(17). Related requests for reconsideration were decided on August 16, 1984, and December 3, 1984.

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The collection of \$1,818.50 made by the Marine Corps was based on a prima facie case of carrier liability, and an estimate of repairs prepared by Sentry Housing, Inc. The carrier claimed refund of \$1,761.50 on the ground that damage attributable to transportation was only \$67, the cost of replacing one piece of outside sheet metal. In denying the claim we rejected Chandler's unsubstantiated contention that since most of the damage was not discovered until after delivery, that damage was not the responsibility of the carrier.

Issue and Decision

Upon reconsideration, the carrier, while conceding responsibility for additional damage of \$41 to rescrew and reseal two pieces of outside sheet metal, and \$18 to reseal aluminum stripping, presents a proposal to settle its claim on the basis of 50 percent (\$909.25) of the amount collected from it. Its proposal is based on two grounds. First, based on Chandler Trailer Convoy, Inc., 55 Comp. Gen. 1209 (1976), the carrier contends that we erred in not considering many items of damage as normal wear and tear rather than the result of transportation. Second, the carrier contends that we should have used a lower estimate of repair as evidence of the actual damages. The carrier refers to an estimate of \$1,140.45 prepared by General Adjustment Bureau Services, Inc., which is \$678.25 less than Sentry's estimate, the one used by the Marine Corps in making the deduction.

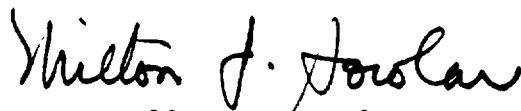
The facts in the cited Chandler decision do not support the carrier's contention that most of the damage incurred by Sergeant Lingner's unit was mere wear and tear. Here, Chandler contends that loose carpet, resealing the roof, window leaks, insulation and other unspecified items of damage were not transportation-related. In the cited Chandler decision we allowed only \$178 out of \$1,942.66 as normal wear and tear on a unit that was 18 months old and transported several hundred miles. Here the unit was only 7 months old and in nearly new condition, and it was transported only about 200 miles. Also, here the carrier's liability was not based solely on prima facie evidence; there was affirmative evidence of carrier negligence through four instances of rough handling observed by the owners of the unit and uncontested by the carrier. Those instances were when the carrier's tractor cab struck the unit while moving it over a curb while turning around; when the unit was scraped on the bottom while being moved off the road; when

it was dropped abruptly to the ground during jacking; and with its bottom was dragged on the ground while connected to the tractor by a chain. The damages noted on the repair estimate appear consistent with the rough handling.

We are not persuaded either that the lower estimate of repair prepared by General Adjustment Bureau Services Inc. or the carrier's insurance company constitutes a reliable measure of damage. While the carrier noted only some small damage on the waybill after delivery, the owners of the mobile home indicated it was too dark when delivery was completed to make a proper inspection. The next day they discovered the additional damage and immediately called the carrier's representative and advised him of the damage. He told them to contact a nearby Air Force Base to file a claim. The carrier did not inspect the damage. Sentry's estimate, upon which Sergeant Lingner's claim was settled and collection was made from the carrier, was prepared about 2 months after delivery. The lower estimate made by General Adjustment Bureau was prepared nearly 8 months after delivery and after the owner apparently had several of the damages corrected. The record is not clear either whether the different repair procedure that supported the lower estimate would have made the owner whole, or whether it was based on an abstract analysis of the earlier higher estimate rather than on an on-site inspection of the unit itself.

The cumulative effect of the above-described circumstances is a case that falls far short of establishing the validity of the carrier's claim.

Accordingly, the claim is denied.



Acting Comptroller General
of the United States